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10 ATTORNEYS FOR Defendants CITY OF VALLEJO, THOMAS LIDDICOET, KEVIN
11 MCCARTHY, KELLY SCHROEDER, WILLIAM CLARK and JOHN WHITNEY

12
13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**
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16 LATEACHEEAH G. ANDERSON
17 SALVATTO, and RICHARD SALVATTO,
18 individually and as guardians for JAMAL
THROWER, a minor

19 Plaintiffs,

20 vs.

21 COUNTY OF SOLANO, CITY OF
22 VALLEJO, COUNTY OF SOLANO
SHERIFF'S DEPARTMENT, LIEUTENANT
23 LIDDICOET, OFFICER K. MCCARTHY,
24 VALLEJO POLICE DEPARTMENT,
WATCH COMMANDER K. SCHROEDER,
25 CORPORAL B. CLARK, OFFICER
WHITNEY,

26 Defendants.
27 _____/

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Case No.: CIV S-04-0163 WBS GGH

**DECLARATION OF DEFENDANT
WHITNEY IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT/ADJUDICATION**

DATE: 1:30 p.m.
TIME: December 12, 2005
CTRM: 5
JUDGE: Honorable William B.
Shubb

1 I, John Whitney, declare as follows:

2 1. If called to testify as a witness in this matter, I can and will testify competently
3 as to the matters of fact contained herein based upon my personal knowledge.

4 2. I am a sworn police officer with the Vallejo Police Department, and was on duty
5 on January 5, 2003.

6 3. In the afternoon of January 5, 2003, I observed an individual I later learned to
7 be Plaintiff JAMAL THROWER operating a motorized scooter on the sidewalk of Tennessee
8 Street, in Vallejo, California.

9 4. It did not appear Plaintiff JAMAL THROWER was using the sidewalk for
10 ingress or egress, but as a continuous travel path.

11 5. Based on this observation, I believe I had probable cause to stop THROWER
12 for violation of California Vehicle Code Section 21235(g), operating a motorized scooter on
13 a sidewalk.

14 6. When I asked Plaintiff THROWER for his name, he hesitated, and initially gave
15 me a different name. When I asked him for identification, he could not produce a driver's
16 license or any form of identification on his person. Based on this information, I believed I
17 had probable cause that Plaintiff THROWER was in violation of Vehicle Code § 40302(a),
18 "failure to present satisfactory identification."

19 7. I placed Plaintiff THROWER in handcuffs and transported him back to the
20 Vallejo Police Station for purposes of verifying his identification.

21 8. I did not consider Plaintiff THROWER under arrest, but was being detained to
22 properly identify himself and allow me to conduct an appropriate background check.

23 9. Once at the police station, I asked Plaintiff THROWER for a phone number of
24 a parent or guardian, but he failed or refused to provide me with a phone number.

25 10. Plaintiff THROWER was not booked, photographed or fingerprinted.

26 11. Plaintiff THROWER was at the police station for less than an hour.

27 12. Ultimately, it was decided to accept Plaintiff THROWER's representations
28 about his identity, and thus would be cited and released. I issued a citation to Plaintiff

1 THROWER for violation of California Vehicle Code Section 21235(g), operating a motorized
2 scooter on the sidewalk, at 1551 hours and released him.

3 13. Later that day, dispatch informed me Plaintiff LATEACHEEAH G.
4 ANDERSON SALVATTO wished to speak to me at the Vallejo Police Department regarding
5 the citation I issued to Plaintiff THROWER.

6 14. I met with Plaintiff LATEACHEEAH G. ANDERSON SALVATTO in the
7 lobby of the Vallejo Police Department. I recorded our conversation. Attached hereto as
8 Exhibit A is a true and correct copy of that taped conversation of January 5, 2003, and a copy
9 of the transcript of same. The taped conversation is labeled VPD 018.

10 15. Plaintiff LATEACHEEAH G. ANDERSON SALVATTO represented to me
11 she was the parent of Plaintiff THROWER, and proceeded to, in my opinion, belligerently
12 and rudely yell at me for issuing the citation to Plaintiff THROWER.

13 16. Once it became clear to me Plaintiff LATEACHEEAH G. ANDERSON
14 SALVATTO was not willing to listen to me or be cooperative, the conversation was
15 terminated.

16 17. At no time did I make physical contact with Plaintiff LATEACHEEAH G.
17 ANDERSON SALVATTO.

18 18. At no time did Plaintiff LATEACHEEAH G. ANDERSON SALVATTO
19 complain to me about her prior contact with other officers, including Defendants
20 LIDDICOET and MCCARTHY.

21 19. At no time did Plaintiff LATEACHEEAH G. ANDERSON SALVATTO
22 complain about being injured as a result of her prior contact with other officers, including
23 Defendants LIDDICOET and MCCARTHY.

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1 I declare under penalty of perjury, under the laws of the State of California, that the
2 foregoing is true and correct.

3 Executed this 28th day of October, 2005, at Vallejo, California..
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5 /s/ John Whitney (original signature retained by counsel for Defendants)
6 John Whitney
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